

ORDINANCE NO: G-2014-3 **AMENDED**

INTRODUCED BY: McGinn  
COMMITTEE: Public Works

**AN ORDINANCE AMENDING CHAPTER 8.05  
(HEALTH AND SANITATION)  
OF THE EVANSVILLE MUNICIPAL CODE**

WHEREAS, the Evansville-Vanderburgh County Building Commission recommends that Chapter 8.05 of the Evansville Municipal Code be amended to revise certain definitions and procedures pertaining to Article VI of Chapter 8.05 concerning weeds and rank vegetation ; and

WHEREAS, the City Council of the City of Evansville ("City Council") wishes to adopt such recommendation by amending Chapter 8.05 of the Evansville Municipal Code.

NOW, THEREFORE, BE IT HEREBY ORDAINED by the City Council of the City of Evansville, Indiana, that Chapter 8.05 of the Evansville Municipal Code is hereby amended as follows:

**SECTION 1. AMENDMENT OF SECTION 8.05.180 OF THE EVANSVILLE MUNICIPAL CODE.**

Section 8.05.180 of the Evansville Municipal Code shall be amended to include a definition of "Excluded Property" and to revise the definitions of "Department", "Hearing Authority", "Owner", "Person Responsible" and "Weeds" within said Section as follows:

"Department" refers to the Evansville-Vanderburgh County Building Commission, which shall have the responsibility of administering this article.

"Excluded Property" shall refer to the following, (1) Cultivated land in commercial, domestic, agricultural or horticultural use; (2) An existing natural or developed forest that does not create a health or safety hazard so long as it is cleared fifteen (15) feet from roadways and five (5) feet from adjacent occupied properties; (3) A wetland area designated by the United States Department of Interior Fish and Wildlife Division on a National Wetlands Inventory Map and/or determined to be a wetland area by the Department of public works; and (4) any property covered by an approved "Storm Water Pollution Prevention Plan" on file in the City Engineer's Office. Excluded Property shall be exempt from the requirements of this Article.

"Hearing Authority" shall mean the person designated as such by the Mayor under authority of IC 36-7-2 et. seq."

"Owner" refers to the owner of record, as found in the records of the Vanderburgh County Treasurer's office.

"Person Responsible" shall mean the Owner."

**FILED**

**MAR 3 1 2014**

*Anna Widner*  
CITY CLERK

"Weeds" refers to any growth of vegetation, other than trees, bushes, shrubs, ornamental plants, or agricultural plants cultivated in an orderly manner for the purpose of producing food. Notwithstanding the foregoing, trees, bushes, shrubs or agricultural plants, which have sprouted as volunteers and are growing along fence lines or which block sidewalks, alleys, or otherwise obstructs public rights-of-way and easements, shall be considered to be Weeds.

## SECTION 2. AMENDMENT OF SECTION 8.05.190 (C) OF THE EVANSVILLE MUNICIPAL CODE.

Section 8.05.190 (C) of the Evansville Municipal Code shall be amended by deleting the fourth and fifth sentences of the subsection C and replacing it as follows:

"The Department shall document any violation of this municipal code and issue a notice to the owner to cut the weeds or cut or remove the rank vegetation within ten (10) calendar days. The notice becomes final ten (10) days after notice is given, unless the owner or another person holding a substantial property interest of public record requests a hearing, in writing, before the hearing authority and the written request is either delivered to the Department before the end of the ten (10) day period or is mailed via certified mail post-marked before the end of the ten (10) day period."

## SECTION 3. AMENDMENT OF SECTION 8.05.200 (A) OF THE EVANSVILLE MUNICIPAL CODE.

Section 8.05.200 (A) of the Evansville Municipal Code shall be amended by deleting the first, second, third and fourth sentences of the subsection A and replacing it as follows:

"Notice to Owner – Content. For any property found to be in violation of EMC 8.05.190, the Department shall issue a notice to remove weeds and/or rank vegetation to the Owner notifying the Owner of the violation and giving the owner ten (10) calendar days to abate the violation. If the Owner has a designated property manager pursuant to the mandatory rental registry, then the Department shall notify the property manager by email or fax if the contact information is available. Said notice shall also state the amount of initial penalty included if the violation is not abated within the ten (10) days. Notice of subsequent penalties will not be provided as set forth in EMC 8.05.200(D). If the violation is corrected by the owner or other responsible party within ten (10) days, no further action will be taken and no penalty imposed. The Owner or other responsible party shall correct the violation or request a hearing before the hearing authority within ten (10) days of the date of notice. The request for a hearing must be in writing, addressed to the Department and delivered in person or by certified mail post-marked before the end of the ten (10) day period. If the Owner has a designated property manager pursuant to the mandatory rental registry, the property manager may submit an appeal. The notice must also state that if the violation is abated by the Department or its agent, the Owner will be liable for the cost incurred by the Department in abating the violation, the average processing cost incurred by the Department in processing the matter, and any monetary penalty as outlined under EMC 8.05.250 for property owners who violate EMC 8.05.190."

SECTION 3. AMENDMENT OF SECTION 8.05.200 OF THE EVANSVILLE MUNICIPAL CODE.

Section 8.05.200 of the Evansville Municipal Code shall be amended to include the following as subsection D:

“(D) Continued Violation. Any Department of the City that receives a complaint regarding any property within the City shall forward the complaint to the Building Commission, which shall record the complaint and assign a case number to the complaint. An inspector shall inspect the property in the manner provided for in Section 8.05.190(C) of this chapter. A notice of violation issued for vegetation of a height of nine (9) inches or more shall remain in effect for the calendar year in which it is issued if the City abates the violation as provided for in this chapter. Following the City’s abatement and without issuance of any other notice of violation, the City may continue to reinspect the subject property and may abate subsequent violations of vegetation exceeding a height of nine (9) inches. The City may recover costs of the abatement of subsequent violations as provided for in this chapter.”

SECTION 4. AMENDMENT OF SECTION 8.05.210 OF THE EVANSVILLE MUNICIPAL CODE.

Section 8.05.210 of the Evansville Municipal Code shall be amended as follows:

“If the violation has not been abated by the Owner as notice, the Department shall enter the property and abate the violation utilizing its own employees and equipment or a contractor engaged by the Department.”

SECTION 5. AMENDMENT OF SECTION 8.05.220 (B) OF THE EVANSVILLE MUNICIPAL CODE.

Section 8.05.220 (B) of the Evansville Municipal Code shall be amended by adding the following sentence at the end of subsection B:

“The Board of Public Safety shall determine the price that contractors are paid for the removal of weeds and/or rank vegetation. Prices paid to contractors shall be re-evaluated by the Board of Public Safety upon recommendation of the Department. The City’s Purchasing Department and the Department shall establish criteria and procedures for eligibility to serve as a contractor.”

SECTION 6. AMENDMENT OF SECTION 8.05.230(A)(1) OF THE EVANSVILLE MUNICIPAL CODE.

Section 8.05.230(A)(1) of the Evansville Municipal Code shall be amended as follows:

“(1) The work was not performed on the noticed property or was performed before the ten (10) days’ notice required by EMC 8.05.200;”

SECTION 7. AMENDMENT OF SECTION 8.05.230(A)(3) OF THE EVANSVILLE MUNICIPAL CODE.

Section 8.05.230(A)(3) of the Evansville Municipal Code shall be amended as follows:

“(3) The Owner was not served notice of the violation as provided in EMC 8.05.200.”

SECTION 8. AMENDMENT OF SECTION 8.05.250(B) OF THE EVANSVILLE MUNICIPAL CODE.

Section 8.05.250(B) shall be amended as follows:

“(1) Any person who violates any provision of this chapter shall be subject to a civil penalty of \$200.00 for any violation in any calendar year.

(2) The Hearing Authority or a court of law may assess additional civil penalties of up to \$5,000 against the Owner for noncompliance.”

SECTION 9. EFFECTIVE DATE.

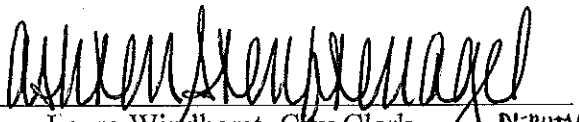
This Ordinance shall be in full force and effect after its passage by the City Council and signing by the Mayor.

PASSED BY the Common Council of the City of Evansville, Indiana, on the 31<sup>st</sup> day of MARCH, 2014, and on said day signed by the President of the Common Council and attested by the City Clerk.

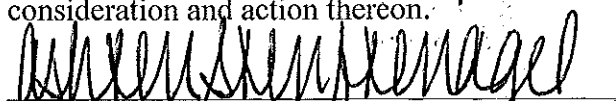


John Friend, President of the Common Council,  
City of Evansville, Indiana

ATTEST:

  
Laura Windhorst, City Clerk DEPUTY  
City of Evansville, Indiana

Presented by me, the undersigned City Clerk of the City of Evansville, Indiana, to the Mayor of said city, this 2<sup>ND</sup> day of April, 2014, at four o'clock PM .m. for his consideration and action thereon.

  
Laura Windhorst, City Clerk DEPUTY  
City of Evansville, Indiana

Having examined the foregoing ordinance, I do now, as Mayor of the City of Evansville, Indiana, approve said ordinance and return the same to the City Clerk this 30th day of April, 2014, at 8:30 o'clock A.m.

A handwritten signature in black ink, appearing to read "Lloyd Winnecke", written over a horizontal line.

Lloyd Winnecke, Mayor  
City of Evansville, Indiana

APPROVED AS TO FORM  
BY TED C. ZIEMER, JR., CORPORATION COUNSEL